

**TESTIMONY OF THE
DISTRICT DIVISION OF TRANSPORTATION
DEPARTMENT OF PUBLIC WORKS**

**PUBLIC HEARING ON
BILL 14-307**

THE URBAN FOREST PRESERVATION ACT OF 2001



**Dan Tangherlini
Acting Director
District Division of Transportation**

**Anthony A. Williams
Mayor**

**Committee on Public Works and the Environment
Carol Schwartz, Chairperson**

**Monday, December 10, 2001
2:00 pm
Council Chambers
Washington, DC**

Good day, Councilmember Schwartz and members of the Committee. I am Mark Buscaino, the recently appointed State Forester for the District in the District Division of Transportation. I am pleased to testify for Dan Tangherlini, Acting Director of Transportation, on behalf of the Williams Administration regarding Bill 14-307, the Urban Forest Preservation Act of 2001.

Statement of Position

The Administration strongly supports Bill 14-307 with small modifications to enhance the Bill's effectiveness once it is implemented.

Introduction

Although trees are often regarded primarily in terms of their aesthetic contributions to an urban setting, they also provide important public utility functions such as stormwater mitigation, reducing energy demands, pollution abatement, and others. And, like any other city infrastructure component such as roads, and sewers for example, trees need to be maintained so their full benefits are realized, and replaced as needed when they reach the end of their life.

I will restate that DDOT strongly supports passage of this bill. Like hundreds of communities across the United States who have enacted tree protection laws, the District should follow suit and set an example for the rest of the nation. However, we propose that Council consider a different approach.

Overall Comments

We suggest that the bill under consideration be viewed in terms of an enabling document. This enabling document would then be tied to a manual or manuals that address the detail required to meet goals of preserving, protecting, and expanding the District's urban forest.

To illustrate this concept I ask you to turn to Section 103, page 4, line 20 of the bill. The establishment of the Urban Forest Preservation Program should remain in the bill. However, the wording outlines responsibilities of the Program, some of which are not defined, that DDOT would be responsible for implementing. In this case, we suggest that it may be more appropriate for the bill to state something similar to the

following: “Council hereby establishes an Urban Forest Preservation Program. The program’s mission, goals and objectives are to be defined in an Urban Forest Manual.

Creation of this Urban Forest Manual – the accompanying document, would be formulated with input from all of the city’s stakeholders in this arena, including environmental groups, concerned citizens, utility companies, the US Forest Service, and the like. Such a document would head off criticism and make for a more solid, broad-based, Urban Forestry Program that would survive in the long term, which is the necessary time horizon for any successful forestry program.

Another example of how a standards manual may better meet the goals of this bill can be seen under Section 105, Permit Requirements, located on page 5, line 21. Again, we suggest that the wording of this Section be broad enough to allow the Administration to enact regulations through a standards document. In this case, the wording could be similar to the following: “Council hereby requires adherence to the rules and regulations set fourth in the “The Urban Forest Manual” to protect, preserve and replace trees that are impacted by construction or any land disturbing processes.” The accompanying manual would then set fourth the guidelines under which these disturbances would be regulated.

The bill attempts to formulate specific guidelines that in my experience are too detailed to include, and too intricate to evaluate in a short time frame. Again, viewing the bill as an enabling document would likely make it a more solid platform upon which other standards could be formulated with a broad base of players to gain universal consensus and support.

If this approach is followed, however, the question is how long would it take to put together this Urban Forest Manual, and how would it be approved? Realistically, to get a good document, it would take somewhere between 18 and 24 months. As an interim step, the bill could stipulate that “emergency” measures would be enacted within three or four months after the bill’s passage, perhaps through the Tree Advisory Board. These emergency or interim measures would be followed until the complete manual is written, again with a deadline of between 18 and 24 months.

One final comment on the accompanying document or Urban Forest Manual, The document should be flexible enough to change with technical advances in the arboricultural, building and utility industries, technical advances in urban forest

science, and the like. To ensure this flexibility, we suggest Council include a provision in the bill that the manual be reviewed, and if necessary, revised, no less than every 7 to 10 years.

In closing, I'll again state that the DDOT is squarely behind passage of this bill. We feel, however, that in order to have a bill that will withstand the test of time and one that we can effectively implement and enforce, we suggest the bill be amended to reduce the number of specifics and allow DDOT instead to develop an Urban Forest Manual for the management and administration of the program.

This concludes my testimony. I would be pleased to answer any questions.

Proposed General Revisions

Below are a number of proposed changes to the Bill. Please note that many of these would be addressed through the creation of an Urban Forest Manual as suggested previously.

1. The bill should stipulate the creation of an Urban Forest Manual, or something similar, that is regulatory in scope. The manual would detail items such as the goals for the Urban Forest Preservation Program, practices required for effective tree preservation for construction, tree replacements required for different species and different types of disturbance, single tree removal for house additions versus land clearing for home construction, etc. Formulating this document could be done with input from the Tree Advisory Board, industry groups, tree care professionals, concerned citizens, and the like.

In short, this manual would be similar to Ddot's book of construction standards that could even be termed a "Green Book" perhaps. The manual would be tied to the bill and deal with implementation specifics. We urge this due to the technical issues associated with what the bill is now trying to regulate, and also due to the speed at which the accompanying manual could react to changes affecting the District's urban forest, which would be much faster than law. An example of this is the new provision in the bill increasing the current fine for damaging trees on

public property from 50 to 2,500 dollars. This law was initially passed in 1892, which at the time was surely a big fine, but it is only just now being revised.

2. Effective administration and enforcement of several provisions of the bill may require additional staff knowledgeable in the field of construction impacts. This means certified arborists, licensed landscape architects, or equivalently trained professionals. If budgetary constraints will not allow optimum staffing levels, a skeleton staff of three or four individuals would allow Ddot to begin to meet the intent of this bill. Staffing at this minimum level may be accomplished through permit review fees, but a detailed analysis of this mechanism has not yet been conducted.
3. To curtail losses associated with inexperienced and untrained tree care contractors, we suggest that the bill include a provision allowing the Urban Forest Manual to regulate tree care contractors to ensure minimum standards of competency. Such a provision would help to preserve the health of the urban canopy, and protect residents from companies performing poor work. Similar regulations are already in effect in Montgomery County, Maryland.
4. This bill does not address tree removals on individual lots unrelated to construction. We suggest Council consider an encouragement program or some other type of mechanism that may curtail these losses as they can be significant, especially on a micro, or neighborhood level. The details of this encouragement program could be contained in the Urban Forest Manual.